



Title III Supplement Not Supplant Guidance

Title III is a **supplemental** program to provide services “in addition to and not replace” core English language development services. Guidance released by the U.S. Department of Education indicates that supplanting under Title III means that recipients may not use those funds to pay for services that, in the absence of Title III funds, would be necessary and required to be provided by other Federal, State, or local funds. This guidance is effective for the 2009-10 school year and will be reflected in the grant application process and incorporated into State and local Title III monitoring.

Core Language Instruction Educational Programs

States, districts, and schools are required to provide core English language development programs and services for limited English proficient (LEP) students based on Title VI of the Civil Rights Act of 1964, and its implementing regulations, as interpreted by the U.S. Supreme Court ruling in *Lau v. Nichols*, and the Equal Educational Opportunities Act of 1974. Activities associated with the core English language development program which are required by the above referenced Acts and should **not** be funded by Title III include:

- Home Language Survey implementation
- substitutes or stipends to administer and score the initial screening of English proficiency with the LAS Links Placement Test or PreLAS 2000. Use of Title I, Part A funds is also prohibited for this expenditure.
- substitutes or stipends to administer the Spring LAS Links English proficiency assessment. This assessment is a requirement of Title I, Part A but is not an authorized expenditure under Title I, Part A.
- salaries of ESL teachers to provide basic ESL services (responsibility of the State and LEA, not the Federal Government)

These core English language development program activities may be paid with State Non-English Speaking Program funds or local general funds.

Allowable Title III Expenditures

Activities that are directly attributable to Title III requirements and are allowable Title III expenditures include:

- professional development for classroom teachers, ESL staff, and administrators on effective instruction for LEP students
- peer coaching to develop teacher expertise in providing instruction to LEP students
- stipends for teachers to obtain ESL licensure
- parent notification letters of initial identification as LEP and program placement
- parent notification letters of AMAO determinations
- implementation of English Language Proficiency (ELP) Standards
- additional enhancements to ESL services beyond the core program including supplemental staff and instructional materials to support additional ESL services.

History of Expenditures

As a general rule, the use of Title III funds to pay for services to LEP students that were paid for in prior years with State, local, or other Federal funds also is assumed to be a violation of the non-supplanting requirement. This may be rebutted by the LEA if it can demonstrate through documentation that it would not have continued to provide those services for LEP students with State, local or other Federal funds because, for example, of budgetary constraints or competing educational priorities.

Reduction of State Funds for Language Development

States may not reduce the level of State English language development funds based on the amount of Title III funds its LEAs receive. Any reduction in the amount of State funds an LEA receives for English language development programming based on receipt of Federal funds for its LEP population under Title III, violates the non-supplanting provision of Title III.

Questions to Consider in Determining Usage of Title III Funds

The following questions should be used to guide decisions about whether or not Title III is the appropriate source for expenditures:

- How are English language development services provided or funded for all LEP students?
- What services/programs does the LEA offer to meet Lau v. Nichols requirements?
- Is the LEA required to provide the service or activity based on Federal, State or local law aside from Title III?
- Was the service or activity previously funded by a source other than Title III?

If the answer indicates that Title III funds are being used to provide core services, rather than additional or supplemental services, the non-supplanting requirement would be violated. School year 2009-10 grant applications for both the Federal Title III and State Non-English Speaking Program will be updated to outline acceptable expenditures based on this guidance. Applications for both programs will be available in Summer 2009.

Scenarios

1. May Title III funds be used to pay the salary of ESL staff providing pull-out English language development instruction?
 - Regardless of the methodology (i.e., pull-out, content based ESL, or Sheltered content instruction), if the instruction provided is the core English language development service and not an additional service, it would violate the Title III supplanting requirement to use Title III funds.
2. May Title III funds be used to pay the salary of a teacher providing Sheltered content instruction to LEP students?
 - If the Sheltered content instruction is provided in addition to core English language development instruction, it may be permissible. If the Sheltered content instruction, or any other type of English language development instruction, is the only form of English language development provided to the students and is not a supplemental service, it would not be permissible to use Title III funds.
3. May Title III funds be used to pay the salary of a bilingual school psychologist, social worker or guidance counselor?
 - Requirements to provide these staff do not originate from Title III so funds could not be used to pay the salary of the sole staff person in this position. Title III funds may be able to support salaries to reduce the student/staff ratio or provide additional, supplemental staff in a building.
4. May Title III funds pay the salary of instructional assistants serving as translators for parent-teacher conferences?
 - The LEA is required to provide interpreters at parent-teacher conferences and other school events outside of Title III requirements. Title III funds could only be used to pay for additional, supplemental interpreters and could not be the sole source for this expenditure.

Questions? Please contact:

Lauren Harvey, Assistant Director
Office of English Language Learning & Migrant Education
(317) 232-0555 (800) 382-9962
www.doe.in.gov/englishlanguagelearning